

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**

MICHAEL A. MAXIE,)	
)	
Plaintiff,)	
)	
vs.)	CAUSE NO. 3:17-CV-935 JD
)	
MICHAEL REHAK,)	
)	
Defendant.)	

OPINION AND ORDER

Michael A. Maxie, a prisoner without an attorney, filed a complaint with a motion asking to proceed in forma pauperis. However, Maxie is barred from proceeding in forma pauperis by 28 U.S.C. § 1915(g). This is commonly known as the “Three Strikes Rule” and Maxie has accumulated four strikes:

- (1) *Maxie v. Schneier*, 3:13-CV-848 (N.D. Ind. filed August 19, 2013). Case dismissed on September 4, 2013, pursuant to 28 U.S.C. § 1915A as malicious;
- (2) *Maxie v. Doe*, 3:13-CV-1278 (N.D. Ind. filed November 29, 2013). Case dismissed on February 26, 2014, pursuant to 28 U.S.C. § 1915A for failure to state a claim ;
- (3) *Maxie v. Levenhagen*, 3:13-CV-1279 (N.D. Ind. filed November 29, 2013). Case dismissed on May 1, 2014, pursuant to 28 U.S.C. § 1915A for failure to state a claim;
- (4) *Maxie v. Wilson*, 3:13-CV-1021 (N.D. Ind. filed September 23, 2013). Case dismissed on May 2, 2014, pursuant to 28 U.S.C. § 1915A for failure to state a claim.

An inmate with three or more strikes “can use the partial prepayment option in § 1915(b) only if in the future he ‘is under imminent danger of serious physical injury.’” *Abdul-Wadood v. Nathan*, 91 F.3d 1023, 1025 (7th Cir. 1996). In order to meet the imminent danger standard, the

threat complained of must be real and proximate. *Ciarpaglini v. Saini*, 352 F.3d 328, 330 (7th Cir. 2003). Only “genuine emergencies” qualify as a basis for circumventing § 1915(g). *Lewis v. Sullivan*, 279 F.3d 526, 531 (7th Cir. 2002). In this case, Maxie is suing his public defender for \$800,000.00 for not properly representing him in his current State court criminal proceedings. There are no allegations of imminent danger of serious physical injury. Thus, he may not proceed *in forma pauperis* and must pay the \$400 filing fee to continue with this case.

For these reasons, Michael A. Maxie is **GRANTED** until **January 11, 2018**, to pay the \$400 filing fee; and **CAUTIONED** if the fee is not paid by that date, this case will be dismissed without further notice.

SO ORDERED.

ENTERED: December 18, 2017

/s/ JON E. DEGUILIO
Judge
United States District Court